

Serial No.: 09/615,363
Filing Date: 13 JULY 2000

REMARKS

This Response is submitted in response to the Office Communication mailed 5 MAY 2004. A copy of the claims are provided above, as pending after entry of the Amendment filed 26 January 2004.

The Examiner states that the Amendment filed 26 January 2004 presents only claims drawn to a non-elected invention and is non-responsive. The Examiner suggests that the remaining claims are not readable on the elected invention.

Applicant directs the Examiner's attention to 37 CFR § 1.145 "If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §1.143 and 1.144." Applicant further directs the Examiner's attention to MPEP §808 "Reasons for Insisting Upon Restriction", stating "Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why the inventions *as claimed* are either independent or distinct; and (B) the reasons for insisting upon restriction therebetween ...".

Accordingly, should the Examiner maintain that Applicant has impermissibly shifted to a non-elected invention, Applicant respectfully submits that the Examiner state the reasons why the inventions are either independent or distinct, and the reasons for insisting upon restriction therebetween. The Examiner has only stated the feature "defining a three-dimensional display area" and "such that a three-dimensional visual representation of said product appears in said display space" was not previously claimed. Applicant respectfully submits that the introduction of a feature not previously claimed is not a proper reason for restriction.

Applicant further submits that the previously filed claim 12 (as amended by Amendment A canceling claims 1-11, referred to as "Claim 12A" herein) is generic to the present claim 12 (as amended by Amendment B filed 26 January 2004, referred to as "Claim 12B" herein). In particular, Claim 12A recited "memory, coupled to said processor unit, storing an approximation of at least one characteristic of each said product, said characteristic selected from a group consisting of (a) an image of said product, (b) a sound of said product, (c) a texture of said product, (d) a mass of said product, (e) a smell of said product, (f) a temperature of said product, and (g) vibrations of said product". Claim 12B now recites "memory, coupled to said processor unit, storing an approximation of an image of said product". Applicant merely amended Claim 12 to recite a single member of the previous Markush group.

Claim 12A recited "for each said characteristic in said group, a simulation sub-system functionally coupled to said memory, that simulates said characteristic for said user". Applicant has amended the

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claim to be consistent with the selection of the "image" characteristic from the Markush group, above, and to further define and recite aspects of the "simulation sub-system". Accordingly, Claim 12B now reads "a visual sub-system, functionally coupled to said memory and defining a three-dimensional display area, that simulates said image for said user such that a three-dimensional visual representation of said product appears in said display space".

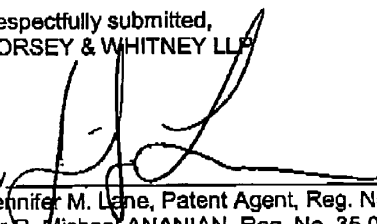
Accordingly, Applicant submits that Claim 12A (Claim 12 as amended by Amendment A) is generic to Claim 12B (Claim 12 as amended by Amendment B filed 26 January 2004). Accordingly, Applicant submits that restriction is not proper between Claim 12A and Claim 12B, and therefore Applicant has not impermissably shifted inventions in filing Amendment B on 26 January 2004.

Reconsideration of the Notice of Non-Responsive amendment and restriction implied by the Notice are respectfully requested. Entry and consideration of the Amendment filed 26 January 2004 is requested.

CONCLUSION

If after review, the Examiner feels there are further unresolved issues, the Examiner is invited to call the undersigned at (415) 781-1989.

Respectfully submitted,
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